

## India Judicial Assistance

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**Disclaimer:** The information in this circular relating to the legal requirements of specific foreign countries is provided for general information only and may not be totally accurate in a particular case. Questions involving interpretation of specific foreign laws should be addressed to foreign counsel. This circular seeks only to provide information; it is not an opinion on any aspect of U.S., foreign, or international law. The U.S. Department of State does not intend by the contents of this circular to take a position on any aspect of any pending litigation.

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**Summary:** Judicial assistance between the United States and India is governed by the Vienna Convention on Consular Relations (VCCR), 21 UST 77, TIAS 6820, 596 U.N.T.S. 261, the Hague Convention on the Legalization of Foreign Public Documents, the Hague Convention on the Service of Process Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters, and the bilateral Treaty on Mutual Legal Assistance in Criminal Matters, TIAS.

**Service of Process: As of August 1, 2007,** the Hague Convention on the Service Abroad of Judicial and Extra Judicial Documents in Civil and Commercial Matters is in force between the United States and India. Requests for service of process on persons or entities located in India, utilizing the USM-94 form should be sent to the Indian Central Authority for that Convention. Contact and practical information regarding requests for service of process in India may be found on the Hague Conference website. India has made a reservation to the Convention objecting to service of process by mail, or directly through judicial officers in India without the involvement of the Central Authority. See also our Service Under the Foreign Sovereign Immunities Act (FSIA) feature and FSIA Checklist for questions about service on a foreign state, agency or instrumentality.

**Obtaining Evidence: As of April 8, 2007,** the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters is in force between the United States and India. Requests to take voluntary depositions should be modeled on the Hague Model Letter of Request and submitted to the Indian Central Authority for this Convention. Depositions may also be taken of willing witnesses before U.S. Consular Officers with the prior permission of the Central Authority, provided no compulsion is used. U.S. and state officials participating in depositions in India must first obtain host country clearance. If assistance of a U.S. consular officer is needed to take a

deposition in India, contact the U.S. Embassy or Consulate directly. See also our Obtaining Evidence Abroad guidance.

**Criminal Matters:** The United States signed a Mutual Legal Assistance Treaty in Criminal Matters with India October 17, 2001, Treaty Doc. 107-3 , 107th Cong., 2d Sess. The treaty entered into force on October 3, 2005 following the exchange of instruments of ratification. The U.S. central office under the treaty is the Office of International Affairs, Department of Justice, while the Indian central office is the office of the Joint Secretary (Security), Ministry of Home Affairs. Implementation details under the treaty continue to be addressed by both sides. Local, state, and federal prosecutors in the United States interested in obtaining evidence in India may also wish to consult the Office of International Affairs, Criminal Division, U.S. Department of Justice, Washington, D.C. 20520 at (202) 514-0015.

The U.S. Department of State expects criminal defendants, or their defense counsel, who wish to request judicial assistance in obtaining evidence or in effecting service of documents abroad in connection with criminal matters to make such requests pursuant to letters rogatory in accordance with Article 5(j) of the VCCR. Defense requests for compulsion of evidence in criminal matters may be prepared in the form of a letter rogatory transmitted via diplomatic channels from the U.S. Department of State, Bureau of Consular Affairs, Overseas Citizens Services, Office of American Citizens Services and Crisis Management, Near East and South Asia Division, 1-888-407-4747. See 22 CFR 22.1 regarding current consular fees. For general guidance about preparation and transmittal of such requests, see our Letters Rogatory feature.

**Authentication of Documents: India is a party** to the Hague Convention Abolishing the Requirement for Legalization of Foreign Public Documents . For information about authentication of documents web page notarial and authentication feature. See also the U.S. Department of State Authentications Office webpage. Additional guidance for consular officers about authentication of documents is available at 7 Foreign Affairs Manual 870. But U.S. Embassy in New Delhi guidance regarding India's implementation of the Hague Apostille Convention. Although India is a signatory to the Hague Convention Abolishing the Requirement of Legalization for Foreign Public Documents, full implementation of the Convention is still pending. Under the Convention, a document is "legalized" by the issuance of an apostille. Until implementation of the Convention is finalized in India, please contact the following office if you wish to legalize/authenticate an Indian document: Attestations Office, Ministry of External Affairs (CPV Division), Patiala House, Tilak Marg (near India Gate), New Delhi - 110 001, Tel. +011-91-11-2338-7931.

**Lists of Attorneys in India:** See the U.S. Embassy in New Delhi List of Attorneys; U.S. Consulate General in Chennai List of Attorneys; U.S. Consulate General in Calcutta List of Attorneys and U.S. Consulate General in Mumbai List of Attorneys. See also Retaining a Foreign Attorney.

## Links

### U.S. Government Links

Intercountry Adoption - India

Library of Congress Guide to Law Online – India

India Background Notes

World Fact Book - India

**NGO Links**

Emory School of Law - India

Emory - Divorce in India

**Indian Links**

India Ministry of Law and Justice

Department of Legal Affairs

Supreme Court of India

Indian Courts

Indian Judiciary

India Central Bureau of Investigation - Letters Rogatory Government Guidelines and Notifications

Indian Law

India National Legal Services Authority

India Case Law

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